

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

FELDON BUSH, SR.,)	
)	Civil Action
Petitioner)	No. 12-cv-02723
)	
vs.)	
)	
MIRIROSA LAMAS,)	
)	
Respondent)	

O R D E R

NOW, this 1st day of February, 2013, upon consideration of the pro se Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody, which petition was filed May 17, 2012 by petitioner Feldon Bush, Sr., pro se; upon consideration of the Response to Petition for Writ of Habeas Corpus filed October 11, 2012 by respondent Mirirosa Lamas¹; upon

¹ The docket entries in this matter identify two respondents: Mirirosa Lamas and "THE ATTORNEY GENERAL OF THE STATE OF _____". They also reflect that Philadelphia Assistant District Attorney Anne Palmer has entered an appearance for each respondent. In her Response to Petition for Writ of Habeas Corpus, Attorney Palmer depicts the caption as "FELDON BUSH, SR v. MIRIROSA LAMAS ET AL." In her response, Attorney Palmer refers to her clients in the plural as "Respondents".

On October 11, 2012, pro se petitioner Feldon Bush Sr. filed his habeas corpus petition in two different formats. He filed a fifteen-page Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody (Document 1) utilizing a fill-in-the-blanks preprinted form. Attached to his petition is a twenty-six page document titled "WRIT OF HABEAS CORPUS" (Document 1-1). (In footnote 1 on page 1 and footnote 19 on page 6 of his Report and Recommendation, Magistrate Judge Perkin interprets Document 1-1 to be a Memorandum of Law in Support of Document 1.)

The caption of Document 1 contains the preprinted words "Petitioner (include the name under which you were convicted)" after which petitioner wrote "FELDON BUSH SR.", and the preprinted words "v. Respondent (authorized person having custody of petitioner)" after which petitioner wrote "MIRIROSA LAMAS".

Following that, the caption of Document 1 contains the preprinted words "The Attorney General of the State of", following which there is a blank

(Footnote 1 continued):

consideration of the Report and Recommendation of United States Magistrate Judge Henry S. Perkin dated November 29, 2012 and filed November 30, 2012; it appearing that as of the date of this Order that petitioner has not filed any objections to the Report and Recommendation of Magistrate Judge Perkin; it further appearing after review of this matter that Magistrate Judge Perkin's Report and Recommendation correctly determined the legal and factual issues presented in the petition for habeas corpus relief,

IT IS ORDERED that Magistrate Judge Perkin's Report and Recommendation is approved and adopted.

IT IS FURTHER ORDERED that the pro se petition for habeas corpus relief is dismissed with prejudice and without an evidentiary hearing.

IT IS FURTHER ORDERED that because petitioner has not met statutory requirements to have his case heard, and no

(Continuation of footnote 1):

space. Petitioner did not fill in this blank. Document 1 was signed and verified by the petitioner Feldon Bush Sr. on May 14, 2012.

Document 1-1, the "Writ of Habeas Corpus" is a typewritten document prepared by or for petitioner. It contains the caption "FELDON BUSH SR., Petitioner, v. MARIROSA LAMAS, Respondant [sic]." Paragraph 2. of Document 1-1 states: "2. Marirosa Lamas, Respondent in her capacity as Superintendent, is the keeper at SCI-Rockview." (In the caption of Document 1, petitioner spells respondent's first name "MIRIROSA". In the caption and body of Document 1-1, petitioner spells it: "MARIROSA".)

Nowhere in the caption or body of either Document 1 or Document 1-1 does petitioner mention or refer to The Attorney General of the Commonwealth of Pennsylvania, or of any other state. Accordingly, notwithstanding the contrary assertion in the docket, I conclude that petitioner sued, and intended to sue, only one respondent (Mirirosa/Marirosa Lamas) in his habeas corpus petition.

reasonable jurist could find this procedural ruling debatable,
and because petitioner fails to demonstrate denial of a
constitutional right, a certificate of appealability is denied.

IT IS FURTHER ORDERED that the Clerk of Court shall
close this case for statistical purposes.

BY THE COURT:

/s/ JAMES KNOLL GARDNER
James Knoll Gardner
United States District Judge